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Notice of Allowability	Application No.	Applicant(s)	
	10/764,070	KORNBREKKE ET AL.	
	Examiner	Art Unit	
	David N. Spector	2873	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Amendment filed 8/11/2005.
2. ☒ The allowed claim(s) is/are 1,3-13 and 15-25.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>enclosed w/0905</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

An EXAMINER'S AMENDMENT to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Teresan W. Gilbert on September 2, 2005 (details of the aforesaid interview are outlined in an Interview Summary, PTO-413B, provided with this Office action).

Claim (Amended)1 is replaced with the following:

1. (Twice Amended) A structured fluid composition comprising:

- (a) a low refractive index liquid;
- (b) particles selected from the group consisting of light absorbing particles, and non-light absorbing or very low light absorbing particles; wherein said non-light absorbing or very low light absorbing particles help to create a structured colloidal suspension, and wherein the particles interact through colloidal forces without encapsulating the fluid in isolated compartments; and
- (c) at least one additive selected from the group consisting of
 - (i) a dispersant,
 - (ii) a charging agent,
 - (iii) a surfactant,
 - (iv) a flocculating agent,
 - (v) a polymer, and
 - (vi) combinations thereof;

wherein the particles have a sufficient number of functional groups of either acid or base, to allow the dispersant to form a tightly packed mono-layer, and wherein the dispersant has the complementary acid or basic functional group to interact with the particles surface and a molecular structure resulting in a strong interaction between the particles surface and the dispersant to inhibit agglomeration, resulting in a stable suspension that is not agglomerated having ionically charged light absorbing particles, and forming an interactive structure which inhibits motion therein.

Claim 2 is deleted in its entirety.

Claims 1, 3-13 and 15-25 are allowed in light of the above-noted examiner's amendment and the amendments/arguments filed by applicant on August 11, 2005. Claims 2 and 14 have been canceled. All pending claims thus being allowable, prosecution on the merits is closed in this application. A statement of the examiner's reasons for allowance is provided below in the paragraph which follows below.

Reasons for Allowance

The instant application is deemed to be directed to a nonobvious improvement over the invention of Whitehead et al. (U.S. Patent No. 6,865,011) cited by the examiner in the previous Office action, and/or any of the numerous other patents cited by the applicant as being a representative examples in the art to which the instant invention pertains. In particular, said improvement provides a structured fluid composition comprising, *inter alia*, "particles selected from the group consisting of light absorbing particles, and non-light absorbing or very low light absorbing particles; wherein said non-light absorbing or very low light absorbing particles absorbing particles help to create a structured colloidal suspension in which the aforesaid particles interact through colloidal forces without encapsulating the fluid in isolated compartments" (Claim 1, Lines 3-7), and wherein "the particles have a sufficient number of functional groups of either acid or base, to allow a dispersant to form a tightly packed mono-layer, and wherein the dispersant has the complementary acid or basic functional group to interact with the particles surface, and a molecular structure resulting in a strong interaction between the particles surface and the dispersant to inhibit agglomeration (Claim 1, Lines 16-20) recited, *inter alia*, in applicant's sole independent claim. The prior art taken either singly or in combination fails to anticipate or fairly suggest the limitations of applicant's independent claims, in such a manner that a rejection under 35 U.S.C. 102 or 103 would be proper. The claimed invention is therefore considered to be in condition for allowance as being novel and nonobvious over prior art.

Other Remarks/Information

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

NOTICE OF ALLOWABILITY

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any other inquiry concerning this communication or earlier communications from the examiner should be directed to David N. Spector whose telephone number is (571) 272-2338. The examiner can normally be reached at this number Monday through Friday between 6:00 AM and 2:30 PM. The Official FAX number for the United States Patent and Trademark Office is (571) 273-8300.

September 6, 2005

A handwritten signature in black ink, appearing to read 'D.N. Spector', with a long horizontal stroke extending to the right.

**DAVID N. SPECTOR
PRIMARY EXAMINER**